Remarks:

1. Claim 1 is objected to because of a typographical error. Claim 1 is amended above to eliminate the complained of error. Accordingly, applicants respectfully request this objection be withdrawn.

2. The Abstract of the Disclosure is objected to because of language considered by the Examiner to be "legal phraseology". The Abstract is amended above to eliminate the complained of language. Accordingly, applicants respectfully request this objection be withdrawn.

3. Claims 26-31, and 39-40 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner indicates that the aforesaid claims lack antecedent basis for certain terms.

Claim 26 has been amended above to clarify the antecedent basis of the identified terms, and claims 39 and 40 have been cancelled. Accordingly, applicants respectfully request this rejection be withdrawn.

4. Claim 41 is rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Pub. No. US 2001/0018867 A1 ("Jorgensen").

Amended claim 41 recites an electric beverage maker that comprises:

> a liquid heating vessel, a funnel extending into the vessel, and an electric heater for heating liquid in the vessel,
>
> wherein the funnel includes a first open end and a second open end, and the second open end is smaller in cross-sectional area than the first open end, and

wherein the electric heater has a first portion disposed directly below all of the second open end of the funnel, and the first portion of the electric heater is unheated.

The amended claim 41 now recites that all of the portion of electric heater disposed below the second open end of the funnel is unheated. The significance of having the region directly underneath the open end of the funnel unheated is described on page 2, lines 22-28 of the present specification. In contrast, the electric beverage maker disclosed in FIG.5 of Jorgensen clearly shows that heater coil 170 extends underneath the lower tubular section 130 of the ascension pipe 126. Consequently, the electric beverage maker of amended claim 41 is not anticipated by Jorgensen. Accordingly, applicants respectfully request this rejection be withdrawn.

5. Claims 1-5, 8, 10, and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,757,670 ("Laama") in view of Jorgensen. Specifically, the Examiner indicates that "it would have been obvious to one skilled in the art to modify the heating base of Laama with that taught by Jorgensen... in order to allow for easy cleaning of the vessel and heater. Applicants respectfully disagree.

Applicants find no disclosure in either of the cited references indicating that the heating element is removable for the purpose of cleaning the vessel and the heater as is suggested by the Examiner. On the contrary, Laama teaches away from such a suggestion by disclosing that inserting the heating element directly into the water may create mineral deposits that adversely affect the taste of the beverage. (Col.1, lines 35-39) It is for that reason and others, that Laama indicates that it is desirable to form the heating element integrally with the base of the lower vessel (Col.1, lines 42-47); i.e., in a non-removable manner wherein the heating element is separated from the beverage.

The present application and each of the cited references stress the importance of the how the beverage is heated relative to the type of device disclosed. The "Expresso Coffeemaker" disclosed by Laama utilizes a lower vessel 12, an upper vessel 14, a heating assembly 16, a container 20 for coffee grounds, and a funnel 58. Water placed in the lower vessel 12 is heated by the heating assembly 16 integrally formed within the

base of the lower vessel 12. Once the water, now beverage, is disposed in the upper vessel 14, Laama discloses that the heating element 16 and a thermostat 110 is used to maintain the coffee at a drinkable temperature. It does this via heat conduction "achieved from the heating element 104, through the base 86, the side wall of the lower vessel 12, the locking ledges 38, 40, 46, and 48, and the side wall of the upper vessel 14". (Col. 6, lines 47-56) The thermostat cycles the heating assembly continuously to maintain the desired fluid temperature. Hence, the Laama device relies on an integrally mounted heating element 104 within an aluminum vessel to heat the beverage.

Jorgensen, on the other hand, discloses a device having an open upper compartment 101, a closed compartment 102, an ascension pipe 126, and a heater 166. Water heated within the closed compartment 102 is forced up through the ascension pipe 126 and into the upper compartment 101. The liquid remains there until the pressure within the closed compartment decreases to a point where the liquid will be forced back into the closed compartment.

It is clear from the cited references, that the heating elements used within both references are specifically chosen to suit the application at hand, and are not applicable to the application of the other. The Laama device is an expresso coffeemaker. The Jorgensen device is an infusion-type beverage device. The heating element of the Laama device relies upon an integral mount within a conductive medium to accomplish the initial heating and the secondary heating. A non-integral heating element (e.g., a Jorgensen-type heating element) would likely not produce the heat transfer necessary to perform secondary heating required of the Laama device, particularly since a large portion of the conductive path (i.e., the portion of the base disposed between the lower vessel and the heating element 104) would not be present if one were to use a Jorgensen-type heating element within the expresso device of Laama.

In short, there is no support for the motivation to combine provided by the Examiner, and the cited references actually teach away from the proposed combination. For at least these reasons, applicants respectfully request the examiner withdraw the stated rejection of claims 1-5, 8, 10, and 24.

6. Claims 2 and 4 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,757,670 ("Laama") in view of Jorgensen. Specifically, the examiner indicates that the use of plastics is an obvious matter of design choice. Applicants respectfully disagree with the rejection.

As stated above, Laama describes in detail that expresso coffeemaker relies upon heat transfer through the lower vessel and upper vessel to accomplish the initial and secondary heating. The heat transfer necessary to perform the secondary heating required of the Laama device would not be possible in a plastic vessel. In fact, Laama discloses the use of plastic within the heating assembly housing 84 to provide insulation from the hot base portion 86 of the lower vessel 12 "so that the coffeemaker may be placed on various heat sensitive surfaces". (Col.4, lines 33-38)

For at least these reasons, applicants respectfully request the examiner withdraw the stated rejection of claims 2 and 4.

7. Claims 11 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Laama in view of U.S. Patent No. 4,357,520 ("Taylor"). Specifically, the Examiner indicates that it would have been obvious to substitute the thermally sensitive control of Laama with that taught by Taylor in order to manually control the operation of the heater. Applicants respectfully disagree.

As stated above, the expresso coffeemaker of Laama includes a thermostatic switch 110 that operates to provide a secondary heating after the brewed beverage is disposed within the upper vessel 14. The switch automatically cycles to maintain the contents of the upper vessel within a predetermined temperature range. (Col. 5, lines 33-40) There is no manual reset. It is important to note that the Laama device uses steam generated within the lower vessel to force the liquid from the lower vessel upward, through the coffee grounds, and into the upper vessel. (Col. 2, lines 65-68; Col. 3, lines 1-4)

Taylor, on the other hand, discloses an "Electric Water-Boiling Container Having Switch-on Dry and Steam Sensitive Thermally responsive Control Units". The switching device disclosed by Taylor operates in two different modes. In a first mode, the switch operates if the "jug" is switched on dry. (Col.4, lines 53-61) The absence of water in the jug causes the heater element to rapidly rise above a predetermined temperature and trip a bimetallic actuator to break the electrical power to the heater. In a second mode, when water within the jug boils, steam enters a passage aligned with a second bimetallic actuator. The thermal energy from the steam causes the heater element to trip the bimetallic actuator to break the electrical power to the heater. In both modes, the switch can be manually reset by the user pushing on a knob.

Because the Taylor switch device breaks electrical power in a mode where the vessel is dry, or in a mode where steam is present, it is wholly unsuited to be combined with the device of Laama as is suggested by the Examiner. Laama requires steam to force the water up into the upper vessel. That same steam would cause a Taylor-type switch to break the electrical power to the heater. Once the brew is made within the Laama device, the heater continues operation within the lower vessel in a dry mode, to maintain the brew in the upper vessel at a desired temperature. Here again, a Taylor-type switch would prevent the Laama device from working in its intended manner. There is, therefore, no motivation to combine the teachings of the references, and even if combined the references do not arrive at the claimed invention.

For at least these reasons, applicants respectfully request the examiner withdraw the stated rejection of claims 11 and 25.

8. Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over Laama in view of Jorgensen as applied to claims 1 and 8 above, and further in view of Taylor.

Claim 9 depends from claim 8, which depends from claim 1. Applicants respectfully direct the Examiner to the remarks above pertaining to Claim 1 and the

combination of Jorgensen and Laama, and also to the remarks above pertaining to the combination of Laama and Taylor. For at least the reasons provided therein, applicants respectfully request the Examiner withdraw the stated rejection.

In addition, the applicants respectfully submit that Jorgensen and Laama both disclose switch/control mechanisms for maintaining the brew at a desired temperature. Applicants find no disclosure within Taylor that the described switch mechanism operates in such a manner. Hence, the switch mechanism of Taylor, combined in the manner suggested by the Examiner, would prevent the Laama and/or Jorgensen device from working in its intended manner.

9. Claim 22 is rejected under 35 U.S.C. §103(a) as being unpatentable over Laama in view of Taylor as applied to claim 11 above, and further in view of Jorgensen.

Claim 22 depends from claim 11. Applicants respectfully direct the Examiner to the remarks above pertaining to Claim 11 and the combination of Laama and Taylor, and also to the remarks above pertaining to the combination of Laama and Jorgensen. For at least the reasons provided therein, applicants respectfully request the Examiner withdraw the stated rejection.

In addition, the applicants respectfully submit that Jorgensen and Laama both disclose switch/control mechanisms for maintaining the brew at a desired temperature. Applicants find no disclosure within Taylor that the described switch mechanism operates in such a manner. Hence, the switch mechanism of Taylor, combined in the manner suggested by the Examiner, would prevent the Laama and/or Jorgensen device from working in its intended manner.

10. Claim 23 is rejected under 35 U.S.C. §103(a) as being unpatentable over Laama in view of Jorgensen as applied to claim 1 above, and further in view of U.S. Patent No. 5,782,163 ("Chang").

Claim 23 depends from claim 1. Applicants respectfully direct the Examiner to the remarks above pertaining to Claim 1 and the combination of Laama and Jorgensen. For at least the reasons provided therein, applicants respectfully request the Examiner withdraw the stated rejection.

As the Applicants have traversed each objection and rejection made by the Examiner, it is respectfully requested that the pending claims be allowed and the present application be passed onto allowance. Applicants believe no fee is due with the filing of this Response. However, if any fee is due, Applicants respectfully request the fees be charged to Deposit Order Account No. 13-0235.

Respectfully submitted,

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